BOMBAY CITY POLICE ACT, 1902.

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SCHEDULE A.—Enactments repealed.
SCHEDULE B.—Certificate to be received by Police officers appointed by the Commissioner of Police.

BOMBAY ACT No. IV OF 1902.[1]

[*9th July, 1902.*]

An Act to amend the law relating to the Bombay City Police.

WHEREAS it is expedient to amend and consolidate the law relating to the Police in the City of Bombay; and whereas the previous sanction of His Excellency the Governor General, required by section 5 of the [2]Indian Councils Act, 1892, has been obtained for the passing of this Act;

55 and 56 Vict., c. 14.

It is enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title.

1. (*1*) This Act may be cited as the City of Bombay Police Act, 1902.

Local extent.

(*2*) Sections 27, 62, 68, 97, 99, 101 and 102 extend to the whole of the Presidency of Bombay.

(*3*) The rest of the Act extends only to the City of Bombay.

Repeal of enactments.

2. (*1*) The enactments mentioned in Schedule A are repealed to the extent specified in the fourth column of the said Schedule.

(*2*) All references made in any enactment of the Governor of Bombay in Council to any enactment hereby repealed shall be read as if made to the corresponding provisions of this Act.

Saving of appointments, etc.

(*3*) All rules prescribed, appointments made, powers conferred and orders and certificates issued under any enactment hereby repealed shall, so far as they are consistent with this Act, be deemed to have been respectively prescribed, made, conferred and issued thereunder.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,

(*a*) the phrases "complaint," "investigation," "offence," "cognizable offence," "non-cognizable offence," "bailable offence" and "non-bailable offence," shall respectively have the meanings assigned thereto by the [3]Code of Criminal Procedure;

V of 1898.

(*b*) "Police officer" shall mean any member of the Police force for the City of Bombay appointed under this Act and shall include the Commissioner of Police, a Deputy or Assistant Commissioner of Police, and subject to the provisions of sub-section (*2*) of sections 9 and 10, an additional or special Police officer;

(*c*) "officer in charge of a section" shall include, when the Inspector in charge

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[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1902, Pt. VII, p. 49 : for Report of Select Committee, *see ibid*, 1902, Pt. VII, p. 58, and for Proceedings in Council, *see ibid*, 1902, Pt. VII, pp. 157, 197 and 275.

[2] Collection of Statutes relating to India, Vol. II.

[3] *See* Act V of 1898 as modified up to 1st April, 1903.

of the section is absent or unable from illness or other cause to perform his duties, the next senior Police officer in the section, or such other officer as the Superintendent of the Division may, subject to the sanction of the Commissioner of Police, appoint in that behalf ;

[1](*d*) " cattle " shall, besides horned cattle, include elephants, camels, horses, mares, geldings, ponies, colts, fillies, asses, mules, sheep, lambs, rams, ewes, goats, kids and swine ;

(*e*) " prescribed " shall mean prescribed by any rules made under this Act ;

(*f*) " sign " shall, with reference to a person who is unable to write his name, include " mark ";

(*g*) " place of public amusement " shall mean any place, enclosure, building, tent, booth or other erection, whether permanent or temporary, where music, singing, dancing or any diversion or game, or the means of carrying on the same, is provided, and to which the public are admitted either on payment of money, or with the intention that money may be collected from those admitted, otherwise than for a *bonâ fide* charitable purpose; and shall include a race-course, circus, theatre, music hall, billiard-room, bagatelle-room, gymnasium or fencing school ;

(*h*) " place of public entertainment " shall mean any place, whether enclosed or open, to which the public are admitted, and where any kind of food or drink is supplied for consumption on the premises for the profit or gain of any person owning or having an interest in or managing such place ;

and shall include a refreshment-room, eating-house, coffee-house, liquor-house, boarding-house, lodging-house, hotel, tavern or wine, beer, spirit, arrack, toddy, ganja, bhang, or opium-shop ;

(*i*) " street " shall mean any road, footway, square, court, alley or passage, whether a thoroughfare or not, to which the public have permanently or temporarily a right of access ;

(*j*) " public place " shall include the fore-shore, the precincts of every public building or monument, and all places accessible to the public for drawing water, washing or bathing, or for purposes of recreation ;

(*k*) " vehicle " shall mean any carriage, cart, van, dray, truck, hand-cart or other wheeled conveyance of any description capable of being used on the streets of the City ; and shall include a bicycle, tricycle or automotor car.

CHAPTER II.

OF THE POLICE FORCE, AND ADDITIONAL AND SPECIAL POLICE.

Constitution.

4. For the City of Bombay there shall be a Police force, the strength and

[1] *Cf.* definition in s. 3 of the Cattle Trespass Act, 1871 (1 of 1871), as modified up to 1st May, 1906.

constitution of which shall be as may, with the sanction of the Government of India, from time to time be ordered by the Governor in Council. tion of Police Force.

5. The direction and supervision of the said Police force shall, subject to the control of the Governor in Council, be vested in an officer to be styled the Commissioner of Police for the City of Bombay, who shall from time to time be appointed by the Governor in Council and may be removed by the same authority. Appointment and removal of Commissioner of Police.

6. (*1*) The Governor in Council may from time to time appoint one or more Deputy Commissioners of Police and one or more Assistants to the Commissioner of Police. Any Deputy or Assistant Commissioner so appointed may be at any time removed by order of the Governor in Council. Appointment of Deputies and Assistants to the Commissioner of Police.

(*2*) Every such Deputy Commissioner shall be competent to exercise and perform, under the orders of the Commissioner of Police, any of the powers conferred upon and duties assigned to the Commissioner of Police by or under this Act or any other enactment: and every such Assistant Commissioner shall exercise such powers and perform such duties as may from time to time be delegated or assigned to him by the Commissioner of Police: Powers of Deputy and Assistant Commissioners.

Provided that the powers conferred upon the Commissioner of Police by sections 22 and 56 shall not be exercisable by a Deputy or Assistant Commissioner under this sub-section.

7. (*1*) The appointment and the promotion of Superintendents, Inspectors, Sub-Inspectors and all other members of the Police force, except Deputy or Assistant Commissioners, shall rest with the Commissioner of Police. Power to appoint and promote.

(*2*) The Commissioner of Police may, subject to such rules and in accordance with such procedure as the Governor in Council may from time to time prescribe in this behalf, at any time— Power to dismiss, discharge, reduce, suspend, fine and confine in a police station.

(*a*) dismiss, discharge, reduce, suspend, or to the extent of half a month's pay fine, any member of the Police force appointed by him for neglect or violation of duty, or for any breach of any rules or orders issued by him under this Act, or for gross misconduct while on leave; or

(*b*) punish by confinement in a police station for a period not exceeding three days any member of the Police force below the rank of Havaldar who is in his presence grossly insubordinate or insolent:

Provided that any punishment, other than suspension, inflicted on a Superintendent of Police shall be subject to the confirmation of the Governor in Council.

(*3*) Nothing in sub-section (*2*) shall affect any Police officer's liability to a criminal prosecution for any offence with which he may be charged. Saving clause.

8. (*1*) Every Police officer appointed by the Commissioner of Police shall, on appointment, receive a certificate in the form of Schedule B under the signature Certificates to be given to Police

officers appointed by the Commissioner of Police.

of the Commissioner of Police and shall, in virtue of such certificate, be vested with the powers, functions, privileges and responsibilities of a Police officer.

(2) Every certificate shall become null and void whenever the person named therein ceases, for any reason, to belong to the Police force.

Effect of suspension of Police officer.

(3) The powers, functions and privileges vested in a Police officer shall be temporarily suspended whilst such Police officer is suspended from office. Such Police officer shall not, by reason of such suspension, cease to be a Police officer, but shall continue subject to the same responsibilities and disabilities, and subject to the same authorities, as if no such suspension had taken place.

Power to appoint additional Police officers.

9. (1) The Commissioner of Police may in his discretion appoint, for such time and on such pay, and of such rank or grade, as he shall think fit, additional Police officers to keep the peace or preserve order at any place, or to enforce any of the provisions of this or any other Act in respect of any particular class or classes of offences,

(*a*) on the application of any person, at the charge of such person, or

(*b*) without such application, at the charge of any person for whose profit or benefit any large work, or any public amusement, likely to impede traffic or attract a large concourse of people, is being carried on.

(2) Every additional Police officer so appointed shall, on appointment,—

(*a*) receive a certificate in the prescribed form;

(*b*) be vested with all or such of the powers, privileges and duties of a Police officer as are specially mentioned in the certificate; and

(*c*) be subject to the orders of the Commissioner of Police.

Notice to be given for discontinuance.

(3) In any case in which such Police officers are appointed on the application of any person, such person may, by giving notice in writing, require that on the expiry of one month from the receipt by the Commissioner of Police of such notice, or on the expiry of such shorter period as the Commissioner of Police may fix, the appointment of such Police officers shall cease.

Payments to be accounted for.

(4) All moneys received by the Commissioner of Police for the payment of any such additional Police officers shall be accounted for by him.

Disputes as to payment of cost.

(5) In the event of any dispute in any case under this section the decision of the Chief Presidency Magistrate shall be conclusive as to the amount to be paid, and as to the person by whom it is to be paid, and the sum so ascertained may, on the requisition of the Commissioner of Police, be recovered by the Collector from such person as an arrear of land revenue.

Appointment of special

10. (1) The Commissioner of Police, of his own authority, may at any time appoint any able bodied male person between the ages of 18 and 55 to be a special Police officer to assist the Police force on any occasion when he

has reason to apprehend the occurrence of any riot or grave disturbance of the peace and he is of opinion that the ordinary Police force is not sufficient for the protection of the inhabitants and for the security of property. Police officers.

(2) Every special Police officer so appointed shall, on appointment,—

(*a*) receive a certificate in the prescribed form;

(*b*) have the same powers, privileges and protection as a Police officer;

(*c*) perform all such duties as may be assigned to him by the Commissioner of Police; and

(*d*) be subject to the orders of the Commissioner of Police.

(3) Any person who having been appointed a special Police officer under this section shall, without sufficient excuse, neglect or refuse to serve as such, or to obey any lawful order or direction that may be given to him for the performance of his duties, shall be punished with fine which may extend to fifty rupees. Refusal to serve or perform duties.

11. (1) Subject to the control of the Governor in Council, the Commissioner of Police shall— Constitution of divisions and sections.

(*a*) constitute within the City of Bombay such and so many Police divisions,

(*b*) sub-divide the same into so many and such sections, as to him shall seem fit, and

(*c*) define the limits and extent of such divisions and sections.

(2) Each such division shall be in charge of a Superintendent of Police and each such section shall be in charge of an Inspector of Police. Officers in charge of divisions and sections.

12. Subject to the control of the Governor in Council, the Commissioner of Police may issue such orders as he may deem expedient— Power of Commissioner of Police to issue orders as to organization, etc.

(*a*) relating to the recruitment, organization, instruction, classification, discipline and general government of the force;

(*b*) determining the description and quantity of the arms, accoutrements and other necessaries to be furnished to the Police; and

(*c*) providing for the institution, management, and regulation of any Police fund.

13. (1) Subject to the control of the Governor in Council, the Commissioner of Police may make rules not inconsistent with this Act, or with any other enactment for the time being in force,— Power of Commissioner of Police to make rules regulating duties of Police officers, etc.

(*a*) assigning duties to Police officers of all ranks and grades, and prescribing

(i) the manner in which, and

(ii) the conditions subject to which, they shall exercise and perform their respective powers and duties;

(*b*) prescribing the places of residence and the location of members of the force;

(*c*) regulating or restricting the collection and communication of intelligence and informations ; and

(*d*) prescribing the forms of certificates to be received by additional Police officers and special Police officers.

(*2*) A copy of the rules for the time being in force under this section shall be kept in every Police station.

No Police officer to resign or withdraw without permission or previous notice.

14. (*1*) No Police officer shall resign his office or withdraw himself from the duties thereof without the written permission of the Commissioner of Police and, except in the case of a special Police officer, until, save with such permission,—

(*a*) the expiration,

(i) if such member be a member of the Mounted Police, of six months, or,

(ii) in any other case, of two months,

after written notice of his intention so to do has been received from him by the Commissioner of Police ; and

(*b*) he has fully discharged any debt due by him as a Police officer to Government or to any Police fund.

(*2*) A Police officer, who being absent on leave fails without reasonable cause to report himself for duty on the expiration of such leave, shall be deemed, within the meaning of this section, to withdraw himself from the duties of his office.

Saving in case of discase, etc.

Provided that if any Police officer produces a certificate, signed by the Police Surgeon or by a medical officer holding a gazetted appointment under Government, declaring such Police officer to be unfit by reason of any disease or mental or physical incapacity for further service in the Police, the necessary written permission to resign shall forthwith be granted to him on his discharging, or giving security satisfactory to the Commissioner of Police for the payment of, any such debt as aforesaid due from such Police officer.

Certificate, arms, etc., to be delivered up by person ceasing to be a Police officer.

15. (*1*) Every person appointed under this Act to be a member of the Police force shall, on ceasing to be a member thereof, forthwith deliver up to the Commissioner of Police, or to such person and at such place as he may direct,

(*a*) his certificate, and

(*b*) all clothing, arms, accoutrements and other necessary articles furnished to him for the execution of his duty.

Warrant for seizure of same.

(*2*) The Commissioner of Police or any Magistrate may issue a warrant to search for and seize, wherever they may be found, any certificate, arms, accoutrements, clothing or other necessary articles not delivered up as required by sub-section (*1*).

(3) Every warrant so issued shall be executed in accordance with the provisions of this Act by a Police officer or, if the authority issuing the same so directs, by any other person.

(4) Nothing in this section shall be deemed to apply to any article which, under the orders of the Commissioner of Police, has become the property of the person to whom the same was furnished. Exception in case of private property.

16. Every Police officer not on leave or under suspension shall for all the purposes of this Act be deemed to be always on duty throughout the City of Bombay. Police officer to be deemed always on duty.

17. No Police officer other than a special Police officer shall, without the permission of the Governor in Council, either as principal or agent,— Police officer prohibited from other employment.

(a) engage in any trade,

(b) be in any way concerned in the purchase or sale of any immovable property within the City of Bombay or of any interest therein, or

(c) hold any office or practise any profession or engage in any employment whatever other than his office or duties as such Police officer.

18. Any Police officer who— Offences by Police officers.

(a) contravenes any provision of section 17,

(b) is guilty of cowardice,

(c) resigns his office or withdraws himself from the duties thereof in contravention of section 14,

(d) is guilty of any wilful breach or neglect of any provision of law or of any rule or order which it is his duty as such Police officer to observe or obey, or

(e) is guilty of any violation of duty for which no punishment is expressly provided by any other law in force, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

19. Any Police officer who— Vexatious entry, search, arrest, etc., by Police officers.

(a) without lawful authority or reasonable cause, enters or searches, or causes to be entered or searched, any building, vessel, tent or place,

(b) vexatiously and unnecessarily seizes the property of any person,

(c) vexatiously and unnecessarily detains, searches or arrests any person,

(d) vexatiously and unnecessarily delays, forwarding any person arrested to a Magistrate or to any other authority to whom he is legally bound to forward such person,

(e) offers any unnecessary personal violence to any person in his custody, or

(f) holds out any threat or promise not warranted by law to an accused person.

shall for every such offence be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

False statement to obtain employment.

20. Any person who knowingly makes a false statement or uses a false document for the purpose of obtaining for himself or any other person employment or release from employment as a Police officer, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

Saving in regard to District and Railway Police.

21. Subject to the provisions of the [1]Police Act, 1888, and save in so far as III of 1888. the operation of this section may be temporarily suspended by the special order of the Governor in Council, nothing in this chapter shall be deemed to affect any officer of the District or Railway Police employed within the limits of the City of Bombay on Police functions connected with the administration of any district or railway, as the case may be, and any such Police officer shall in the discharge of such functions be vested with the powers and privileges, and be subject to the liabilities, of a Police officer of the establishment to which he belongs.

CHAPTER III.

Police Regulations.

Rules for preservation of order.

Power to make rules for regulation of traffic and for preservation of order in public places, etc.

22. (*1*) With the previous sanction of the Governor in Council, the Commissioner of Police may from time to time make, alter or rescind [2]rules not in consistent with this Act,—

(*a*) for licensing and controlling persons, offering themselves for employment at quays, wharves and landing-places, and outside Railway Stations, for the carriage of passengers' baggage and fixing and providing for the enforcement of a scale of charges for the labour of such persons so employed ;

(*b*) regulating traffic of all kinds in streets and public places, and the use of streets and public places by persons riding, driving, cycling, walking, or leading or accompanying cattle, so as to prevent danger, obstruction or inconvenience to the public ;

(*c*) regulating the conditions under which vehicles may remain standing in streets and public places, and the use of streets as halting places for vehicles or cattle ;

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[1] General Acts, Vol. V.

[2] For rules regulating traffic under clauses (*b*), (*c*), (*d*) and (*e*), *see* Bombay Government Gazette, 1903, Pt. I, p. 132.

(*d*) prescribing the number and position of lights to be used on vehicles in streets and public places, and regulating and controlling the manner and mode of conveying timber, scaffold poles, ladders, iron girders, beams or bars, boilers or other unwieldy articles through the streets, and the route and hours for such conveyance;

Bom. III of 1888.

(*e*) prescribing, subject to any notice issued by the Municipal Commissioner under clause (*c*) of section 441 of the [1] City of Bombay Municipal Act, 1888, the [2] roads along which, and the hours during which, corpses may, or may not, be carried;

(*f*) for licensing, controlling or, in order to prevent the obstruction, inconvenience, annoyance, risk, danger or damage of the residents or passengers in the vicinity, prohibiting,—

(i) the keeping of places of [3]public amusement or entertainment,

(ii) the playing of music in streets and public places,

(iii) the illumination of streets and public places and the exteriors of buildings abutting thereon by persons other than Government or Municipal officers duly authorized in that behalf,

(iv) the carrying in streets and public places of gunpowder or any other explosive substance, and

(v) the [1]blasting of rocks;

(*g*) regulating the means of entrance and exit at places of [3]public amusement, entertainment and assembly, and providing for the maintenance of public safety and the prevention of disturbance therein; and

(*h*) prescribing the procedure in accordance with which any license or permission sought to be obtained or required under this Act should be applied for, and fixing the fees to be charged for any such license or permission:

Saving of provisions of Bombay Abkari Act and other enactments.

Provided, *firstly*, that nothing in this section and no license granted under any rule made thereunder shall authorise any person to import, export, transport, manufacture, sell or possess any liquor or intoxicating drug, in respect of which a license, permit or pass is required under the [4]Bombay Abkari Act, 1878, or under any other law for the time being in force relating to the abkari revenue, or shall affect the liability of any person under any such law, or shall in any way affect the provisions of the [5]Arms Act, 1878, or of the [6]Explosives Act, 1884, or of any rules made under either of those enactments, or the liability of any person thereunder:

Bom. V of 1878.

XI of 1878.

IV of 1884.

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[1] Vol. III of this Code, p. 975.

[2] For rules under clauses (*e*) and (*v*), *see* Bombay Government Gazette, 1903, Pt. I, p. 1420.

[3] For rules relating to place of public amusement, *see* Bombay Government Gazette, 1903, Pt. I, p. 1601.

[4] Vol. II of this Code, p. 583.

[5] *See* the Act as modified up to 1st October, 1908.

[6] *See* Act 4 of 1884 as modified up to 1st September, 1908.

Saving in regard to licensing places of public entertainment.

Provided, *secondly;* that no rule under clause (*f*) shall contain any regulation requiring a license for any place of public entertainment unless spirituous liquor, toddy or any intoxicating drug, as defined in the [1]Bombay Abkari Act, 1878, or opium, as defined in the [2]Opium Act, 1878, is sold in such place, or unless such place is kept open for customers between the hours of nine at night and five in the morning. Bom. V of 1878. I of 1878.

Provisions as to publication of rules.

(*1*) The power of making, altering or rescinding rules under sub-section (*1*) shall be subject to the condition of the rules being made, altered or rescinded after previous publication in the manner specified in section 23 of the [3]General Clauses Act, 1897, and every rule made, or alteration or recission of a rule made, under the said sub-section and sanctioned by the Governor in Council, shall be published in the *Bombay Government Gazette* and in the manner specified in section 137. X of 1897.

Power of Commissioner of Police to prohibit keeping of place of public amusement or entertainment.

(*3*) Notwithstanding anything hereinbefore contained in this section or which may be contained in any rule made thereunder, it shall always be lawful for the Commissioner of Police to refuse a license for, or to prohibit, the keeping of any place of public amusement or entertainment by a person of notoriously bad character.

Special Orders.

Powers of Commissioner of Police and of other officers to give directions to the public.

23. (*1*) The Commissioner of Police, and, subject to the orders of the Commissioner of Police, every Police officer not inferior in rank to an Inspector may, from time to time as occasion may require, but not so as to contravene any rule under the preceding section, give all such orders either orally or in writing as may be necessary to—

(*a*) direct the conduct of, and behaviour or action of persons constituting, processions and assemblies in streets ;

(*b*) prescribe the routes by which and the times at which any such processions may, or may not, pass ;

(*c*) prevent obstructions on the occasion of all processions and assemblies and in the neighbourhood of all places of worship during the time of public worship, and in all cases when any street or public place or place of public resort may be thronged or liable to be obstructed ;

(*d*) keep order on and in all streets, quays, wharves, landing-places and all other public places or places of public resort ;

(*e*) regulate and control music or singing in any street or public place, and the beating of drums, tom-toms and other instruments and the

1 Vol. II of this Code, p. 583.
2 *See* the reprint dated 1st March, 1903.
3 General Acts, Vol. VI.

blowing or sounding of horns or other noisy instruments in or near any street or public place ; or

(*f*) prevent, upon complaint made in writing by any person to the Commissioner of Police, the continuance of music or other such sounds as aforesaid in any place, if the Commissioner of Police be satisfied that the same is a nuisance and ought to be summarily stopped either on account of the serious illness of, or because it seriously interferes with the reasonable occupations of, any person resident or lawfully engaged in the neighbourhood :

Provided that in any case where the continuance of music or other sounds as aforesaid is so prevented, it shall be lawful for a Magistrate, upon the complaint of any person aggrieved, and if satisfied that the order complained of is unreasonable under the circumstances, to alter or reverse such order as he deems fit, and the Commissioner of Police shall give effect to any such alteration or reversal.

Power to give prohibitions for prevention of disorder.

(*2*) The Commissioner of Police may also, whenever and for such time as he shall consider necessary for the preservation of the public peace or public safety, by a notification publicly promulgated or addressed to individuals, prohibit—

(*a*) the carrying of swords, spears, bludgeons, guns, or other offensive weapons, in any public place ;

(*b*) the carrying, collection and preparation of stones or other missiles or instruments or means of casting or impelling missiles ;

(*c*) the exhibition of persons or of corpses, or figures or effigies, in any public place ;

(*d*) the public utterance of cries, singing of songs, playing of music ; and

(*e*) the delivery of harangues, the use of gestures or mimetic representations and the preparation, exhibition or dissemination of pictures, symbols, placards or of any other object or thing, which may be of a nature to outrage morality or decency, or which, in the opinion of the Commissioner of Police, may probably inflame religious animosity or hostility between different classes, or incite to the commission of an offence, to a disturbance of the public peace or to resistance to or contempt of the law or of a lawful authority.

Power to prohibit assembly or procession.

(*3*) The Commissioner of Police may also by order in writing prohibit any assembly or procession, whenever and for so long as he considers such prohibition to be necessary for the preservation of the public peace or public safety :

Provided that no such prohibition shall remain in force for more than seven days without the sanction of the Governor in Council.

Power to reserve street or public place for public purpose.

(*4*) The Commissioner of Police may also, subject to the orders of the Governor in Council, by public notice, temporarily reserve for any public purpose any street or public place, and prohibit persons from entering the area so reserved, save under such conditions as may be prescribed by the Commissioner of Police.

Issue of orders by Commissioner of Police for prevention of riot, etc.

24. (*1*) In order to prevent or suppress any riot or grave disturbance of the peace, the Commissioner of Police may temporarily close or take possession of any building or place, and may exclude all or any persons therefrom, or may allow access thereto to such persons only and on such terms as he shall deem expedient. All persons concerned shall be bound to conduct themselves in accordance with such orders as the Commissioner of Police may make and notify in the exercise of the authority hereby vested in him.

Compensation to lawful occupier of building or place closed or taken possession of by Commissioner of Police.

(*2*) If the lawful occupier of such building or place suffers substantial loss or injury by reason of the action of the Commissioner of Police under this section, he shall be entitled, on application made to the Commissioner within one month from the date of such action, to receive reasonable compensation for such loss or injury, unless such action was in the opinion of the Commissioner of Police rendered necessary either by the use to which such building or place was put or intended to be put or by the misconduct of persons having access hereto.

Disputes as to compensation to be settled by Chief Presidency Magistrate.

(*3*) In the event of any dispute in any case under sub-section (*2*) the decision of the Chief Presidency Magistrate shall be conclusive as to the amount (if any) to be paid, and as to the person to whom it is to be paid.

Issue of orders for maintenance of order at religious ceremonials, etc.

25. (*1*) In any case of an actual or intended religious or ceremonial or corporate display or exhibition or organized assemblage in any street or public place, as to which or the conduct of or participation in which it shall appear to the Commissioner of Police that a dispute or contention exists which is likely to lead to grave disturbance of the peace, the Commissioner of Police may give such orders as to the conduct of the persons concerned towards each other and towards the public as he shall deem necessary and reasonable under the circumstances, regard being had to the apparent legal rights and to any established practice of the parties and of the persons interested. Every such order shall be published in the section or place wherein it is to operate, and all persons concerned shall be bound to conform to the same.

Orders to be subject to decrees, etc., of Courts.

(*2*) Any order under sub-section (*1*) shall be subject to a decree, injunction or order made by a Court having jurisdiction, and shall be recalled or altered on its being made to appear to the Commissioner of Police that it is inconsistent with a judgment, decree, injunction or order of such Court, on the complaint, suit or application of any person interested, as to the rights and duties of any persons affected by the order aforesaid.

Police to prevent disorder at places of public amusement, etc.

26. (*1*) For the purpose of preventing serious disorder or breach of the law or manifest and imminent danger to the persons assembled at any place of public amusement or at any assembly or meeting to which the public are invited or which is open to the public, the Police officer of highest rank, superior to that of Havaldar, present in the section in which such place of public amusement is

situate, or such assembly or meeting is to be held, may, subject to such rules and orders as may have been lawfully made, give such reasonable directions as to the mode of admission of the public to, and for securing the peaceful and lawful conduct of persons attending at, such place or such assembly or meeting, as he thinks necessary, and all persons shall be bound to conform to every such reasonable direction.

Police to have free access thereto.

(2) The Police shall have free access to every such place of public amusement, assembly or meeting, for the purpose of giving effect to the provisions of sub-section (1) and to any direction made thereunder.

Dispersal of gangs and bodies of persons.

27. (1) Whenever it shall appear to the Commissioner of Police that the movements or encampment of any gang or body of persons in the City of Bombay are or is causing or calculated to cause danger or alarm, or a reasonable suspicion that unlawful designs are entertained by such gang or body or by any member or members thereof, or that an outbreak of epidemic disease is likely to result from the continued residence in the City of large numbers of pauper immigrants, the Commissioner of Police with the sanction of the Governor in Council may, by beat of drum or otherwise as he thinks fit, direct the members of such gang or body or such immigrants so to conduct themselves as shall seem necessary in order to prevent violence and alarm or the outbreak or spread of such disease, or to disperse and remove themselves to such place or places, by such route or routes, and within such time, as the Commissioner of Police shall prescribe.

Removal of convicted beggars.

(2) It shall also be competent to the Commissioner of Police to direct the removal in like manner of any person who has been twice convicted of an offence under section 121.

Procedure on failure to remove.

(3) If any person so directed under sub-section (1) or (2) fails or refuses to remove himself outside the City of Bombay within the time specified, the Commissioner of Police may cause such person to be arrested and removed in Police custody to such place outside the city of Bombay as he may in each case direct.

Power to segregate prostitutes and keepers of brothels.

28. The Commissioner of Police may at any time cause a notice to be served upon any person who occupies or manages, or acts or assists in the management of, or upon any woman who resides in, uses or frequents, any house, room or place in which the business of a common prostitute is carried on, requiring such person or woman after a date to be mentioned in the notice, which shall not be less than seven days from the date of the notice, not to reside in, use or frequent any street or place specified in the notice.

Destruction of stray dogs.

29. (1) The Commissioner of Police may from time to time, by public notice, proclaim that any stray dogs found, during such period as may be specified in the said notice, wandering in the streets or in any public place may be destroyed, and any dog so found within such period may be destroyed accordingly.

Provisions as to muzzling or seizure of dogs.

(*2*) The Commissioner of Police may by public notice require that every dog, while in the streets or in any public place and not led by some person, shall be muzzled in such a manner as effectually to prevent it from biting, while not obstructing its breathing or drinking, and the Police may, so long as such notice remains in force, destroy, or take possession of and detain, any dog found loose without a muzzle in any place beyond the premises of the owner thereof :

Saving as to dogs wearing collars.

Provided that any dog so found, wearing a collar on which an apparently genuine name or address of an owner is inscribed, shall not, unless it is rabid, be forthwith destroyed, but information of the detention thereof shall forthwith be sent by post or otherwise to such owner.

Destruction or sale of dogs.

(*3*) Any dog which has been detained under sub-section (*2*) for a period of three clear days without the owner providing a muzzle and paying all expenses connected with such detention, may be destroyed or sold with the sanction and under the orders of the Commissioner of Police.

Proceeds of sale how disposed of.

(*4*) The proceeds of the sale of any dog under sub-section (*3*) shall be applied, as far as may be, in discharge of the expenses incurred in connection with its detention, and the balance, if any, shall be at the disposal of Government.

Recovery of expenses.

(*5*) Any expenses incurred in connection with the destruction or detention of any dog under this section shall, subject to the provisions of sub-section (*4*), be recoverable from the owner thereof upon a warrant issued by the Commissioner of Police, as if it were a warrant under section 386 of the [1]Code of Criminal Procedure. V of 1898.

CHAPTER IV.

Executive Powers and Duties of Police.

Duties of Police Officers.

Arrest to prevent cognizable offences.

30. A Police officer knowing of a design to commit any cognizable offence may arrest, without orders from a Magistrate and without a warrant, the person so designing, if it appears to such officer that the commission of the offence cannot be otherwise prevented.

Prevention of injury to public property.

31. A Police officer may, of his own authority, interpose to prevent any injury attempted to be committed in his view to any public property, moveable or immoveable, or the removal or injury of any public land-mark, or buoy or other mark used for navigation.

Duties of a Police officer.

32. (*1*) It shall be the duty of every Police officer—

(*a*) promptly to serve every summons and obey and execute every warrant or other order lawfully issued to him by competent authority, and

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[1] *See* Act V of 1898 as modified up to 1st April, 1903.

to endeavour by all lawful means to give effect to the lawful commands of his superior;

(*b*) to the best of his ability to obtain intelligence concerning the commission of cognizable offences or designs to commit such offences, and to lay such information and to take such other steps, consistent with law and with the orders of his superiors, as shall be best calculated to bring offenders to justice or to prevent the commission of cognizable, and within his view of non-cognizable, offences;

(*c*) to prevent to the best of his ability the commission of public nuisances;

(*d*) to apprehend all persons whom he is legally authorized to apprehend and for whose apprehension there is sufficient reason;

(*e*) to aid another Police officer when called on by him or in case of need in the discharge of his duty, in such ways as would be lawful and reasonable on the part of the officer aided;

(*f*) to discharge such duties as are imposed upon him by any law for the time being in force;

(*g*) to afford every assistance within his power to disabled or helpless persons in the streets, and to take charge of intoxicated persons and of lunatics at large who appear dangerous or incapable of taking care of themselves;

(*h*) to take prompt measures to procure necessary help for any person under arrest or in custody who is wounded or sick, and, whilst guarding or conducting any such person, to have due regard to his condition;

(*i*) to arrange for the proper sustenance and shelter of every person who is under arrest or in custody;

(*j*) in conducting searches to refrain from needless rudeness and the causing of unnecessary annoyance;

(*k*) in dealing with women and children to act with strict regard to decency and with reasonable gentleness;

(*l*) to use his best endeavours—

(i) to prevent any loss or damage by fire, and

(ii) to avert any accident or danger to the public;

(*m*) to regulate and control the traffic in the streets, to prevent obstruction therein, and to the best of his ability to prevent the infraction of any rule or order made under this Act or under any other law for the time being in force for observance by the public in or near the streets;

(*n*) to keep order in the streets, and at and within public bathing, washing and landing places, fairs and all other places of public resort, and in the neighbourhood of places of public worship during the time of public worship;

(*o*) to regulate resort to public bathing, washing and landing places, to prevent overcrowding thereat and in public ferry boats, and to the best of his ability to prevent the infraction of any rule or order lawfully made for observance by the public at any such place or on any such boat ; and

(*p*) to perform all duties imposed on him by the rules for the time being in force under sections 13 and 22 in the manner and subject to the conditions therein prescribed.

Persons bound to conform to reasonable orders of Police.

(*2*) All persons shall be bound to conform to the reasonable directions of a Police officer given in fulfilment of any of the said duties.

Police officers may restrain or remove contumacious person.

(*3*) A Police officer may restrain or remove any person resisting or refusing or omitting to conform to any such direction as aforesaid.

Powers of Police Officers to arrest without warrant.

When Police may arrest without warrant.

33. Any Police officer may, without an order from a Magistrate and without a warrant, arrest—

(*a*) any person who has been concerned in any cognizable offence, or against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists, of his having been so concerned ;

(*b*) any person having in his possession without lawful excuse, the burden of proving which excuse shall lie on such person, any implement of house-breaking ;

(*c*) any person who has been proclaimed as an offender either under the [1]Code of Criminal Procedure or by order of Government ; V of 1898.

(*d*) any person who is found having in his possession or conveying anything which may reasonably be suspected to be stolen property, or who may reasonably be suspected of having committed an offence with reference to such thing ;

(*e*) any person who obstructs a Police officer while in the execution of his duty, or who has escaped, or attempts to escape, from lawful custody ;

(*f*) any person reasonably suspected of being a deserter from His Majesty's Army or Navy, or of belonging to His Majesty's Royal Indian Marine Service and being illegally absent from that service ;

(*g*) any person who has been concerned in, or against whom a reasonable complaint has been made, or credible information has been received,

[1] *See* Act V of 1898 as modified up to 1st April, 1903.

or reasonable suspicion exists, of his having been concerned in, any act committed at any place out of British India, which, if committed in British India, would have been punishable as an offence, and for which he is under any law relating to extradition or under the [1]Fugitive Offenders Act, 1881, or otherwise, liable to be apprehended or detained in custody in British India;

44 and 45 Vict., c. 69.

(*h*) any released convict committing a breach of any rule made under sub-section (*3*) of section 565 of the [2]Code of Criminal Procedure;

V of 1898.

(*i*) any person committing in his presence any offence punishable under section 112, 115, clause (*e*), (*g*) or (*i*) of section 118, section 119, 121, 122, 123, clause (*a*) of section 124, section 126, clause (i) or (ii) of section 127, in respect of a contravention of a rule made under sub-clause (iv) or (v) of clause (*f*) of sub-section (i) of section 22, or of a prohibition given under clause (*a*) or (*b*) of sub-section (*2*) of section 23, or under section 128 of this Act, or section 3, 4, 5, or 6 of the [3]Prevention of Cruelty to Animals Act, 1890.

XI of 1890.

Refusal to give name and residence.

34. (*1*) A Police officer may arrest without a warrant any person committing in his presence in any street or public place any other non-cognizable offence punishable under this Act, or under any rule made thereunder, or under any other law for the time being in force, if such person—

(i) after being warned by a Police officer persists in committing such offence, or

(ii) refuses on being required by a Police officer to give his name and address, or gives a name or address which the Police officer has reason to believe false, or

(iii) refuses to accompany the Police officer to a station on being required so to do.

Release on bond.

(*2*) When the true name and residence of such person have been ascertained, he shall be released on his executing a bond, with or without sureties, to appear before a Magistrate if so required:

Provided that if such person is not resident in Bombay the bond shall be secured by a surety or sureties resident in Bombay.

Person arrested to be forwarded to Magistrate.

(*3*) Should the true name and residence of such person not be ascertained within twenty-four hours from the time of arrest, or should he fail to execute the bond, or, if so required, to furnish sureties, he shall, subject to the provision of sub-section (*2*) of section 87, forthwith be forwarded to the Presidency Magistrate having jurisdiction.

Other powers of arrest.

35. (*1*) Any Police officer empowered in this behalf by the Commissioner of Police may arrest without warrant for any offence specified in section 120.

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[1] Collection of Statutes relating to India, Vol. II, p. 734.
[2] *See* Act V of 1898 as modified up to 1st April, 1903.
[3] General Acts, Vol. V.

(2) Any Police officer may, on the information of any person in possession or charge of any dwelling house, private premises, or land or ground attached thereto, arrest without warrant any person alleged to have committed therein or thereon an offence punishable under section 111.

Arrest of vagabonds, habitual robbers, etc.

36. Any officer in charge of a section may, without an order from a Magistrate and without a warrant, arrest or cause to be arrested—

(*a*) any person found within his section taking precautions to conceal his presence within the City of Bombay, under circumstances which afford reason to believe that he is taking such precautions with a view to committing a cognizable offence ;

(*b*) any person within his section who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself ,

(*c*) any person who is by repute an habitual robber, house breaker or thief, or an habitual receiver of stolen property knowing it to be stolen, or who by repute habitually commits extortion or in order to the committing of extortion habitually puts or attempts to put persons in fear of injury.

Powers to seize property suspected to be stolen.

37. (*1*) It shall be lawful for any Police officer to seize any property or thing which may be alleged or suspected to have been stolen, or which may be found under circumstances which create suspicion of the commission of any offence.

Orders of Commissioner of Police to be taken.

(2) Every such seizure shall be forthwith reported to the Commissioner of Police, who shall thereupon make such order respecting the custody or production of the property or thing as he shall think proper.

Enforcement of orders issued under section 23, 24 or 25.

38. Whenever a notification, order in writing or public notice has been duly issued under sub-section (*2*), (*3*), or (*4*) of section 23, or an order has been made under section 24 or 25, it shall be lawful for any Magistrate or Police officer to require any person acting or about to act contrary thereto to desist or to abstain from so doing, and, in case of refusal or disobedience, to arrest such person. Such Magistrate or Police officer may also seize any object or thing used or about to be used in contravention of such notification, order or notice as aforesaid, and the thing seized shall be disposed of according to the order of the Chief Presidency Magistrate.

Deputation of a subordinate to arrest without warrant.

39. When any officer in charge of a section requires any officer subordinate to him to arrest without a warrant (otherwise than in his presence) any person who may lawfully be arrested without a warrant, he shall deliver to such subordinate officer an order in writing, specifying the person to be arrested and the offence or other cause for which the arrest is to be made.

Unlawful Assemblies.

Assembly to disperse on com-

40. (*1*) Any officer in charge of a section may command any unlawful assembly or any assembly of five or more persons likely to cause a disturbance

of the public peace to disperse; and it shall thereupon be the duty of the members of such assembly to disperse accordingly. mand of Police officer.

(2) If, upon being so commanded, any such assembly does not disperse, or if, without being so commanded, it conducts itself in such a manner as to show a determination not to disperse, any Magistrate or officer in charge of a section may proceed to disperse such assembly by force, and may require the assistance of any male person, not being an officer or soldier or sailor in His Majesty's Army or Navy, or Royal Indian Marine Service, or a Volunteer enrolled under the [1]Indian Volunteers Act, 1869, and acting as such, for the purpose of dispersing such assembly, and, if necessary, arresting and confining the persons who form it, in order to disperse such assembly or that they may be punished according to law. Use of civil force to disperse.

XX of 1869.

41. If on any emergency the available Police force is not sufficient to disperse an unlawful assembly or to quell a riot or other serious disturbance of the public peace, the Commissioner of Police, or Magistrate of the highest rank who is present, may apply to the officer of highest rank on the spot for military or naval aid for such purpose. Requisition of military or naval aid.

42. (*1*) When the Commissioner of Police or a Magistrate determines to disperse any unlawful assembly by military or naval force, he may require any commissioned or non-commissioned officer in command of any soldiers or sailors in His Majesty's Army or Navy, or Royal Indian Marine Service, or of any Volunteers enrolled under the [1]Indian Volunteers Act, 1869, to disperse such assembly by military or naval force, as the case may be, and to arrest and confine such persons forming part of it as the Commissioner of Police or Magistrate may direct, or as it may be necessary to arrest and confine in order to disperse the assembly or to have them punished according to law. Duty of officer commanding military or naval force required to disperse assembly.

XX of 1869.

(*2*) Every such officer shall obey such requisition in such manner as he thinks fit, but in so doing shall use as little force, and do as little injury to person and property, as may be consistent with dispersing the assembly and arresting and detaining such persons.

43. When the public security is manifestly endangered by any such assembly, and when neither the Commissioner of Police nor a Magistrate can be communicated with, any commissioned officer of His Majesty's Army or Navy, or Royal Indian Marine Service, may disperse such assembly by military or naval force, as the case may be, and may arrest and confine any persons forming part of it, in order to disperse such assembly or that they may be punished according to law; but if, while he is acting under this section, it becomes practicable for him to communicate with the Commissioner of Police or a Magistrate, he shall do so, and shall thenceforward obey the instructions of the Commissioner of Police or Magistrate as to whether he shall or shall not continue such action. Power of commissioned military or naval officers to disperse assembly.

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[1] General Acts, Vol. II.

Protection against prosecution or acts done under section 40, 41, 42 or 43.

44. No prosecution against any [1] [person] for any act purporting to be done under section 40, 41, 42 or 43 of this Act, or under section 42 of the [2] Code of Criminal Procedure, shall be instituted in any Criminal Court, except with the sanction of the Governor General in Council ; and V of 1898.

(*a*) no Magistrate or Police officer acting thereunder in [3] good faith,

(*b*) no officer acting under section 43 in [3] good faith,

(*c*) no person doing any act in [3] good faith, in compliance with a requisition under section 40 or 42 of this Act, or under section 42 of the [2] Code of Criminal Procedure, and V of 1898.

(*d*) no inferior officer, or soldier, or sailor, or volunteer, doing any act in obedience to any order which he was bound to obey,

shall be deemed to have thereby committed an offence.

Compensation for injury caused by an unlawful assembly how recoverable.

45. (*1*) With the previous sanction of the Governor in Council the Chief Presidency Magistrate may, after such enquiry as he deems necessary,—

(*a*) determine the amount of the compensation which, in his opinion, should be paid to any person or persons in respect of any loss or damage caused to any property, or in respect of death or grievous hurt caused to any person or persons, by anything done in the prosecution of the common object of an unlawful assembly ; and

(*b*) require the Municipal Commissioner to recover such amount by an addition to the general tax which shall be imposed and levied in all or such of the municipal wards, sub-wards or sections thereof, as the Chief Presidency Magistrate may, subject to any general or special orders of the Governor in Council in this behalf, direct.

Exemption from liability to pay compensation.

(*2*) It shall be lawful for the Governor in Council, on the recommendation of the Chief Presidency Magistrate, by order, to exempt any persons from liability to pay any portion of such compensation.

Conditions under which compensation claimable.

(*3*) No compensation shall be granted under this section except upon a claim made within one month from the date of the loss, damage, death or grievous hurt as aforesaid, in respect of which such claim is made, and unless the Chief Presidency Magistrate is satisfied that the person claiming compensation, or where such claim is made in respect of the death of any person, that that person also has himself been free from blame in connection with the occurrences which led to the loss, damage, death or grievous hurt as aforesaid.

Civil suit barred.

(*4*) No civil suit shall be maintainable in respect of any loss or injury for which compensation has been granted under this section.

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[1] "Person" was substituted for "persons" by the Bombay Repealing and Amending Act, 1905 (Bom. Act 4 of 1905), *infra*, p. 1754.

[2] *See* Act V of 1898 as modified up to 1st April, 1903.

[3] As to definition of "good faith," *see* s. 52 of the Indian Penal Code (Act 45 of 1860) as modified up to 1st April, 1903, and s. 3 (*20*) of the Bombay General Clauses Act, 1904 (Bom. Act I of 1904), *infra*, p. 1708.

Recovery by Municipal Commissioner.

46. *(1)* Every addition to the general tax imposed under the last preceding section shall be recovered by the Municipal Commissioner from the persons liable therefor in the same manner as the general tax due from them.

Apportionment of responsibility.

(2) The provisions of sections 147 and 148 of the [1]City of Bombay Municipal Act, 1888, shall apply to any such addition, as if it were part of the general tax levied under the said Act.

Bom. III of 1888.

Unclaimed Property.

Police to take charge of unclaimed property.

47. *(1)* The Police shall take temporary charge—

(a) of all unclaimed property found by, or made over to, them, and also

(b) of all property found lying in any public street, if the owner or person in charge of such property, on being directed to remove the same, refuses or omits to do so.

(2) Property of which the Police have taken charge under sub-section *(1)* shall be handed over to the Commissioner of Police.

Intestate property under two hundred rupees in value.

48. *(1)* If the said property appears to have been left by a person who has died intestate, and not to be under two hundred rupees in value, the Commissioner of Police shall communicate with the Administrator General, with a view to its being dealt with under the provisions of the [2]Administrator General's Act, 1874, or other law for the time being in force.

II of 1874.

Proclamation to be issued by Commissioner of Police.

(2) In any other case the Commissioner of Police shall issue a proclamation specifying the articles of which such property consists, and requiring any person who may have a claim thereto to appear before himself or some other officer whom he appoints in this behalf and establish his claim within six months from the date of such proclamation.

Power to sell perishable property at once.

(3) If the property, or any part thereof, is subject to speedy and natural decay, or consists of livestock, or if the property appears to be of less value than five rupees, it may be forthwith sold by auction under the orders of the Commissioner of Police, and the net proceeds of such sale shall be dealt with in the same manner as is hereinafter provided for the disposal of the said property.

Delivery of property to person entitled.

49. *(1)* The Commissioner of Police shall, on being satisfied of the title of any claimant to the possession or administration of such property, order the same to be delivered to him, after deduction or payment of the expenses properly incurred by the Police in the seizure and detention thereof.

Power to take security.

(2) The Commissioner of Police may, at his discretion, before making any order under sub-section *(1)*, take such security as he may think proper from the person to whom the said property is to be delivered, and nothing hereinbefore contained shall affect the right of any person to recover the whole or

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1 Vol. III of this Code, p. 975.
2 General Acts, Vol. II.

any part of the same from the person to whom it may have been delivered pursuant to such order.

In default of claim, to be at disposal of Government.

(*3*) If no person establishes his claim to such property within such period, it shall be at the disposal of Government, and the property, or such part thereof as has not already been sold under sub-section (*3*) of section 48, may be sold by auction under the orders of the Commissioner of Police.

Procedure not affected by Indian Succession Act or Administrator General's Act.

50. Nothing in the [1]Indian Succession Act, 1865, or in the [2]Administrator General's Act, 1874, shall apply to intestate property which is dealt with by the Commissioner of Police under sub-section (*2*) of section 48. X of 1865. II of 1874.

Public Pounds.

Power to establish cattle-pounds and appoint pound-keepers.

51. (*1*) The Commissioner of Police shall from time to time appoint such places as he thinks fit to be public pounds, and may appoint to be keepers of such pounds such persons and, subject to the approval of the Governor in Council, on such emoluments as he deems fit.

(*2*) Every pound-keeper so appointed shall in the performance of his duties be subject to the direction and control of the Commissioner of Police, and shall be liable to punishment, suspension and dismissal, as if he were a Police officer under this Act.

Impounding of cattle.

52. It shall be the duty of every Police officer, and shall be lawful for any other person, to seize and take to any such public pound for confinement therein, any cattle found straying in any street or trespassing upon any private or public property in the City.

Delivery of cattle claimed.

53. (*1*) If the owner of the impounded cattle or his agent appear and claim the cattle, the pound-keeper shall deliver them to him on payment of the pound-fees and expenses chargeable in respect of such cattle under sub-section (*4*).

Sale of cattle not claimed.

(*2*) If within ten days after an animal has been impounded no person appearing to be the owner of such animal offers to pay the pound-fee and expenses chargeable under sub-section (*4*), such animal shall be forthwith sold by auction, and the surplus remaining after deducting the fee and expenses aforesaid from the proceeds of the sale shall be paid to any person who, within fifteen days after the sale, proves to the satisfaction of such officer as the Commissioner of Police appoints in this behalf, that he was the owner of such animal, and shall in any other case be at the disposal of Government.

(*3*) No Police officer or pound-keeper shall, directly or indirectly, purchase any cattle at a sale under sub-section (*2*).

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1 General Acts, Vol. I.
2 General Acts, Vol. II.

Fees and expenses.

(*4*) (*a*) The pound-fee chargeable shall be in the case of—

(*i*) every ram, }
„ ewe, |
„ sheep, } eight annas,
„ lamb, |
„ goat or kid, }

(*ii*) every other animal, one rupee :

Provided that the Governor in Council may, by Notification in the *Bombay Government Gazette*, from time to time alter the pound-fee to be charged in the case of any animal to an amount not exceeding double the pound-fee chargeable under the foregoing scale.

(*b*) The expenses chargeable shall be at such rates for each day during any part of which an animal is impounded, as shall from time to time be fixed by the Commissioner of Police.

Weights and Measures.

Powers as to inspection, search and seizure of false weights and measures.

54. (*1*) Any Police officer generally or specially deputed to that duty by the Commissioner of Police may without warrant enter any shop or premises for the purpose of inspecting or searching for any weights or measures or instruments for weighing or measuring used or kept therein.

(*2*) If he finds in such shop or premises weights, measures or instruments for weighing or measuring which he has reason to believe are false, he may seize the same and shall forthwith give information of such seizure to the Magistrate having jurisdiction, and if such weights, measures or instruments shall be found by the Magistrate to be false, they shall be destroyed.

(*3*) Weights and measures purporting to be of the same denomination as weights and measures, the standards whereof are provided by the Municipal Commissioner under section 418 of the [1]City of Bombay Municipal Act, 1888, shall, if they do not correspond with the said standards, be deemed to be false within the meaning of this section.

Bom. III of 1888.

Powers of Superior Officers.

Superior officer may himself perform duties imposed on his inferior, etc.

55. A Police officer of rank superior to that of constable may perform any duty assigned by law or by a lawful order to any officer subordinate to him, and in case of any duty imposed on such subordinate, a superior, when it shall appear to him necessary, may aid, supplement, supersede or prevent any action of such subordinate by his own action or that of any person lawfully acting under his command or authority whenever the same shall appear necessary or expedient for giving more complete or convenient effect to the law or for avoiding an infringement thereof.

[1] Vol. III of this Code, p. 975.

Magisterial powers of Commissioner and Deputy Commissioner.

Powers as a Magistrate or Commissioner and Deputy Commissioner of Police.

56. (*1*) The Commissioner, by virtue of his office, and any Deputy Commissioner specially empowered in this behalf by the Governor in Council, shall have all the powers of a Presidency Magistrate under sections 94, 96, 97, 98, 105, 523, 524 and 525 of the [1]Code of Criminal Procedure and section 25 of the [2]Indian Arms Act, 1878. V of 1898. XI of 1878.

(*2*) Such powers may be exercised for the purposes of any investigation or other proceeding under this Act or the [1]Code of Criminal Procedure. V of 1898.

CHAPTER V.

Information to Police and Power to Investigate.

Information if it relates to a cognizable offence to be recorded.

57. The officer in charge of a section on receiving any information relating to the commission within his section of any cognizable offence shall forthwith reduce into writing in manner prescribed, the statement made by the informant, and the informant shall sign the statement so reduced into writing which shall be kept and recorded in manner prescribed, and the officer shall forthwith enter or cause to be entered the substance of such statement in a book which shall be kept in the prescribed form.

Information in non-cognizable cases.

58. (*1*) When information is given to an officer in charge of a section of the commission within his section of a non-cognizable offence, he shall enter in a book to be kept as aforesaid the substance of such information and refer the informant to a Magistrate.

Investigation of non-cognizable cases.

(*2*) No Police officer shall investigate a non-cognizable case without the order of a Presidency Magistrate.

Powers in investigating such cases.

(*3*) Any Police officer receiving such an order may exercise the same powers in respect of the investigation (except the power to arrest without warrant) as an officer in charge of a section may exercise in a cognizable case.

Investigation in cognizable cases.

59. (*1*) Any officer in charge of a section may, without the order of a Magistrate, and shall if so ordered, investigate any case in respect of a cognizable offence alleged to have been committed within his section.

Proceedings not to be called in question.

(*2*) No proceeding of a Police officer in any such case shall at any stage be called in question on the ground that the case was one which such officer was not empowered under this section to investigate.

Procedure where cognizable.

60. If, from information received or otherwise, an officer in charge of a section has reason to suspect the commission of an offence which he is em-

[1] *See* Act 5 of 1898 as modified up to 1st April, 1903.
[2] *See* Act 11 of 1878 as modified up to 1st October, 1908.

powered under section 59 to investigate, he shall forthwith proceed in person, or shall depute one of his subordinate officers to proceed, to the spot to investigate the facts and circumstances of the case, and to take such measures as may be necessary for the discovery and arrest of the offender : Offence suspected.

Provided that, if the information is given against any person by name, and the offence is not of a serious nature, or if it appears to the officer in charge of a section that there is no sufficient ground for entering on an investigation, he need not proceed in person, or depute a subordinate officer, to make an investigation on the spot ; but he shall in every such case record his reasons for not making, or causing to be made, such an investigation.

61. Any Police officer making an investigation under this Act may— Police officer's power to require attendance of witnesses.

(*a*) by order in writing, require the attendance before himself of any person being within the limits of the City of Bombay, who from the information given or otherwise appears to be acquainted with the facts or circumstances of the case, and such person shall attend if so required ; and

(*b*) examine orally any person supposed to be acquainted with the facts and circumstances of the case, and may reduce into writing any statement made by the person so examined, and such person shall be bound to answer all questions relating to such case put to him by such officer, other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

62. (*1*) If in the course of an investigation the Commissioner of Police has reason to believe that a cognizable offence has been committed, he may by order in writing require the attendance before himself or any officer serving under him who is investigating a cognizable offence, of any person then being within the limits of the City of Bombay or within thirty miles of such limits, who from the information given or otherwise appears to be acquainted with the facts or circumstances of the case, and such person shall attend as so required. The provisions of clause (*b*) of the last preceding section shall apply to the person so attending. Special powers of Commissioner of Police to require attendance and obtain statements of witnesses.

(*2*) In any case the Commissioner of Police may forward to the Superintendent of Police of the district in which any person from whom any information is required relating to the facts or circumstances of the case under investigation, is believed to be, such questions and such statement as may be necessary for the purpose of obtaining the information desired, and on receipt thereof such Superintendent of Police shall cause such person to be examined orally and his statement to be reduced into writing in the same manner and subject to the same provisions as if an investigation were being made into such offence in such district, and shall forward the statement reduced into writing to the Commissioner of Police.

Statements to Police not to be signed or admitted in evidence.

63. (*1*) No statement made by any person to a Police officer in the course of an investigation under this Act shall, if taken down in writing, be signed by the person making it nor shall such writing be used as evidence :

Provided that, when any witness is called for the prosecution whose statement has been taken down in writing as aforesaid, the Court shall, on the request of the accused, refer to such writing and may then, if the Court thinks it expedient in the interests of justice, direct that the accused be furnished with a copy thereof ; and such statement may be used to impeach the credit of such witness in manner provided by the [1]Indian Evidence Act, 1872. I of 1872.

(*2*) Nothing in this section shall be deemed to apply to any statement falling within the provisions of section 32, clause (*1*), of the [1]Indian Evidence Act, 1872. I of 1872.

No inducement to be offered.

64. (*1*) No Police officer shall offer or make, or cause to be offered or made, any such inducement, threat or promise as is mentioned in section 24 of the [1]Indian Evidence Act, 1872. I of 1872.

(*2*) But no Police officer or other person shall prevent, by any caution or otherwise, any person from making in the course of any investigation under this Act any statement which he may be disposed to make of his own free will.

Summons to produce document or other thing

65. (*1*) Whenever an officer in charge of a section considers that the production of any document or other thing is necessary or desirable for the purposes of any investigation under this Chapter, he may issue a summons or written order to any person resident in the City of Bombay in whose possession or power such document or thing is believed to be, requiring him to attend and produce it, at such time and place as may be specified therein.

(*2*) Any person required under this section merely to produce a document or other thing shall be deemed to have complied with the requisition if he cause such document or thing to be produced instead of attending personally to produce the same.

Search by Police officer.

66. (*1*) Whenever an officer making an investigation under this chapter considers that the production of any document or other thing is necessary to the conduct of an investigation into any offence which he is authorized to investigate, and

(*a*) there is reason to believe that the person in whose possession or power such document or thing is believed to be, will not voluntarily produce the same on being requested so to do by a Police officer, or in compliance with a summons or written order which has been, or might be issued under section 65, or

(*b*) such document or other thing is not known to be in the possession of any person,

such officer may search, or cause search to be made, for the same in any place within the limits of the City of Bombay.

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[1] *See* Act 1 of 1872 as modified up to 1st September, 1906.

(*2*) Such officer shall, if practicable, conduct the search in person.

(*3*) If he is unable to conduct the search in person and there is no other person competent to make the search present at the time, he may require any officer subordinate to him to make the search, and he shall deliver to such subordinate officer an order in writing, specifying the document or other thing for which search is to be made and the place to be searched, and such subordinate officer may thereupon search for such thing in such place.

(*4*) The provisions of sections 103 and 104 shall, so far as may be, apply to a search made under this section.

Official records and communications, etc., protected.

67. Nothing in sections 65 and 66 shall be deemed to apply to, or to authorise the issue of a summons to produce or warrant to search for, documents or communications of the nature specified in sections 123 and 124 of the [1]Indian Evidence Act, 1872, or any letter, post-card, telegram or other document, parcel or thing in the custody of the Postal or Telegraph authorities.

I of 1872.

When Police officer may require another to make search.

68. (*1*) An officer in charge of a section may require an officer in charge of another section, and the Commissioner of Police may require an officer in charge of a police station in any part of the Presidency of Bombay beyond the City of Bombay, to cause a search to be made in any place, in any case in which such officer in charge of a section or the Commissioner might cause such search to be made within the City of Bombay.

(*2*) Such officer, on being so required, shall proceed in accordance with the provisions of section 66 of this Act or section 165 of the [2]Code of Criminal Procedure, as the case may be, and shall forward the document or thing found, if any, to the officer at whose request the search was made.

V of 1898.

Power to search for persons wrongfully confined.

69. If the Commissioner of Police has reason to believe that any person is confined under such circumstances that the confinement amounts to an offence, he may issue a search warrant; and the person to whom such warrant is directed may search for the person indicated in such warrant, in accordance with such directions as may be given therein, and the person, if found, shall be immediately taken before a Presidency Magistrate, who shall make such order as in the circumstances of the case seems proper.

Procedure when investigation cannot be completed.

70. (*1*) Whenever—

(*a*) it appears that any investigation under this Act cannot be completed within the period of twenty-four hours fixed by section 87, and

(*b*) there are grounds for believing that the accusation is well founded,

the officer in charge of a section shall, subject to the provisions of sub-section (*2*) of section 87, forthwith forward the person accused to a Presidency Magistrate, together with a report setting forth the substance of the information received and of the evidence adducible in the case.

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1 *See* Act 1 of 1872 as modified up to 1st September, 1906.
2 *See* Act 5 of 1898 as modified up to 1st April, 1903.

Order for detention in custody.

(*2*) The Presidency Magistrate to whom an accused person is forwarded under sub-section (*1*) may, after considering any information reduced into writing as hereinbefore provided, and examining any witnesses that he may conside. necessary, from time to time authorize the detention, in such custody as he thinks fit, of the person accused, for a period not exceeding fifteen days at a time, and shall, if he does so, record his reasons for so doing.

Report of investigation by subordinate Police officer.

71. (*1*) When any officer subordinate to an officer in charge of a section has made an investigation under this Act, he shall report either orally or in writing the result of his investigation to the officer in charge of the section.

(*2*) The substance of such report shall be entered in a book which shall be kept, in manner prescribed, by the officer to whom it is made.

Investigation to be promptly completed and report to be prepared and submitted.

72. Every investigation under this Act shall be completed without unnecessary delay, and as soon as it is completed the officer in charge of the section shall prepare a report in the prescribed form setting forth

(*a*) the names of the parties,

(*b*) the nature of the information,

(*c*) the names of the persons who appear to be acquainted with the circumstances of the case, and

(*d*) a statement showing whether any person accused in such case has been arrested or has been released on his bond, and if so, whether with or without sureties.

Release of accused when evidence deficient.

73. (*1*) If it appears to the officer preparing such report that there is not sufficient or reasonable ground of suspicion to justify the forwarding of any person therein mentioned as accused to a Magistrate, such officer shall—

(*a*) if such person is in custody, release him on his executing a bond, with or without sureties as such officer may direct, to appear if and when so required before a Magistrate empowered to take cognizance of the offence, and shall

(*b*) forward the report prepared as aforesaid to the Commissioner of Police together with any weapon or other article which it may be necessary to produce before him.

Further investigation may be ordered.

(*2*) The Commissioner of Police may in any case direct the officer in charge of the case to make further investigation, or may make such further order as he deems fit.

Order for discharge of bond, when made.

(*3*) Whenever it appears from a report forwarded under this section that the accused has been released on his bond, the Commissioner of Police shall make such order for the discharge of such bond or otherwise as he shall think fit.

Case to be sent to Magistrate when evidence sufficient.

74. If the officer in charge as aforesaid considers that there is sufficient evidence or reasonable ground of suspicion to justify him in so doing, he shall—

(*a*) forward the accused person to the Presidency Magistrate having jurisdiction, or

(*b*) if the offence is bailable and the accused is able to give security, shall take security from the accused for his appearance before such Magistrate on a day fixed and for his attendance from day to day before such Magistrate until otherwise directed, and

(*c*) shall also send to such Magistrate the report prepared under section 72, and any weapon or other article which it may be necessary to produce before him.

Bond to secure attendance of complainant and witnesses.

75. (*1*) The officer in charge as aforesaid shall also require the complainant, if any, and so many of the persons who appear to such officer to be acquainted with the circumstances of the case as he may think necessary, to execute a bond to appear before the Magistrate as thereby directed and prosecute or give evidence, as the case may be, in the matter of the charge against the accused.

To be sent to Magistrate.

(*2*) The officer in whose presence the bond is executed shall deliver a copy thereof to one of the persons who executed it, and shall then send the original to the Magistrate with his report.

Complainant and witnesses not to be required to accompany Police officer.

76. No complainant or witness on his way to the Court of a Magistrate—

(*a*) shall be required to accompany a Police officer, or

(*b*) shall be subjected to unnecessary restraint or inconvenience, or

(*c*) shall be required to give any security for his appearance other than his own bond:

Provided that if any complainant or witness refuses to attend or to execute a bond as directed in sub-section (*1*) of section 75, the officer in charge of the section may forward him under custody to the Magistrate, who may detain him in custody until he executes such bond or until the hearing of the case is completed.

CHAPTER VI.

PROCEDURE.

Arrest.

Arrest how made.

77. (*1*) In making an arrest the Police officer or other person making the same shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action.

Resisting endeavour to arrest.

(*2*) If such person forcibly resists the endeavour to arrest him, or attempts to evade the arrest, such Police officer or other person may use all means necessary to effect the arrest.

Limit of right of Police officers to use force.

(*3*) Nothing in this section gives a right to cause the death of any person who is not accused of an offence punishable with death or with transportation for life.

Search of place entered by person sought to be arrested.

78. (*1*) If any person acting under a warrant of arrest, or any Police officer having authority to arrest, has reason to believe that the person to be arrested has entered into or is within any place, the person residing in or being in charge of such place shall, on demand of such person acting as aforesaid, or of such Police officer, allow him free ingress thereto and afford all reasonable facilities for a search therein.

Procedure when ingress not obtainable.

(*2*) If ingress to such place cannot be obtained under sub-section (*1*), it shall be lawful for a person acting under a warrant in any case, and for a Police officer in any case in which a warrant may issue but cannot be obtained without affording the person to be arrested an opportunity of escape,

(*a*) to enter such place and search therein, and

(*b*) in order to effect an entrance into such place to break open any outer or inner door or window of any house or place, whether that of the person to be arrested or of any other person, if after duly stating his authority and purpose and demanding admittance he cannot otherwise obtain admittance :

Breaking open Zenana.

Provided that if any such place is an apartment in the actual occupancy of a woman (not being the person to be arrested) who, according to custom, does not appear in public, such person or Police officer shall, before entering such apartment, give notice to such woman that she is at liberty to withdraw, and shall afford her every reasonable facility for withdrawing, and may then break open the apartment and enter it.

Power to break open doors and windows for purposes of liberation.

79. Any Police officer or other person authorized to make an arrest may break open any outer or inner door or window of any house or place in order to liberate himself or any other person who, having lawfully entered for the purpose of making an arrest, is detained therein.

No unnecessary restraint.

80. The person arrested shall not be subjected to more restraint than is necessary to prevent his escape.

Search of arrested persons.

81. (*1*) (*a*) Whenever a person is arrested by a Police officer,

(*i*) under a warrant which does not provide for the taking of bail, or

(*ii*) under a warrant which provides for the taking of bail, but the person arrested cannot furnish bail,

and

(*b*) whenever a person is arrested

(*i*) without a warrant, or

(*ii*) by a private person under a warrant,

and cannot be legally admitted to bail or is unable to furnish bail,

the Police officer making the arrest, or when the arrest is made by a private person the Police officer to whom he makes over the person arrested, may search such person and place in safe custody all articles other than necessary wearing apparel found upon him.

(2) Whenever it is necessary to cause a woman to be searched, the search shall be made by another woman and with strict regard to decency. Mode of searching women.

82. Every Police officer or other person making an arrest may take from the person arrested any offensive weapons which he has about his person, and shall deliver all weapons so taken to the Court or officer before which or whom the officer making the arrest is required to produce the person arrested. Power to seize offensive weapons.

83. Any private person may arrest any person who, in his view, commits a non-bailable and cognizable offence, or who has been proclaimed as an offender, and shall, without unnecessary delay, make over any person so arrested to a Police officer and shall accompany, or in the absence of a Police officer take, such person to the nearest station. Arrest by private persons and procedure thereon.

84. Every person arrested, and every person on requisition under sub-section (1) of section 34, accompanying a Police officer, shall forthwith be brought before the officer in charge of the section in which the offence alleged against such person appears to have been committed, and the person or officer who made the arrest or the requisition shall inform the said officer in charge of the nature of the offence alleged to have been committed, and of any grounds that may exist for believing it to have been committed. Procedure after arrest.

85. The officer in charge of the section, if he finds Person arrested when to be discharged, etc.

(*a*) that there are no sufficient reasons for believing that the person brought before him has committed any offence, shall record his reasons and forthwith discharge such person;

(*b*) that there are reasonable grounds for suspecting that such person has committed an offence, but not for suspecting that he has committed a cognizable offence, shall forthwith submit a report containing his reasons to the Commissioner of Police and shall thereafter proceed as that officer directs;

(*c*) that there are reasonable grounds for suspecting that the person so brought before him has committed a cognizable offence, shall, if such person was arrested under section 83, re-arrest him and shall either himself investigate, or direct some officer subordinate to him to investigate, the facts and circumstances of the case.

86. An officer in charge of a section making an arrest without warrant, or detaining in custody or re-arresting a person under section 85, shall, without unnecessary delay and subject to the provisions of sections 88 and 130 and to any other provisions of this Act as to bail, take or send the person arrested before the Presidency Magistrate having jurisdiction in the case. Person arrested to be taken before Magistrate.

87. (1) No Police officer shall detain in custody any person arrested without a warrant for a longer period than under all the circumstances of the case is reasonable and necessary, and, subject to the provisions of sub-section (2), in no case for a period exceeding twenty-four hours except under the special orders of a Presidency Magistrate. Limit to power of detention.

Holidays and time when Court is closed to be excluded.

(2) If the aforesaid period expires on a holiday or at night or any other time when the Court of the Presidency Magistrate having jurisdiction in the case is closed, it shall extend to such further time as will permit of the person arrested being brought before such Magistrate when the Court is next open.

Discharge of person arrested.

88. Save as provided in clause (*a*) of section 85, no person who has been arrested by, or who has on requisition under sub-section (*1*) of section 34 accompanied, a Police officer shall be discharged except

(*a*) on his own bond, or

(*b*) on bail, or

(*c*) under the special order of the Commissioner of Police or of a Magistrate.

Summons.

Summons how served.

89. (*1*) Every summons shall, if practicable, be served personally on the person summoned by delivering or tendering to him one of the duplicates of the summons.

Signature of receipt for summons.

(2) Every person on whom a summons is so served shall, if so required by the serving officer, sign a receipt therefor on the back of the other duplicate.

Service of summons on Company.

(3) Service of a summons on an incorporated Company or other body corporate may be effected by serving it on the secretary, local manager or other principal officer of the corporation.

Service when person summoned cannot be found.

90. Where the person summoned cannot by the exercise of due diligence be found, the summons may be served by leaving one of the duplicates for him with some adult male member of his family, or with his servant residing with him ; and the person with whom the summons is so left shall, if so required by the serving officer, sign a receipt therefor on the back of the other duplicate.

Procedure when receipt cannot be obtained.

91. If service in the manner mentioned in sections 89 and 90 cannot, by the exercise of due diligence, be effected, the serving officer shall affix one of the duplicates of the summons to some conspicuous part of the house or homestead in which the person summoned ordinarily resides ; and thereupon the summons shall be deemed to have been duly served.

Warrant.

Continuance of warrant of arrest. Security to be taken if directed in warrant.

92. (*1*) Every warrant of arrest issued by a Court shall remain in force until it is cancelled by the Court which issued it or until it is executed.

(2) If the Court issuing a warrant for the arrest of any person has endorsed thereon any directions for taking security, the officer to whom the warrant is directed shall comply with such directions, and if such security be given shall release such person from custody, and forward the bond to the Court.

Direction, etc., of warrants.

93. (*1*) When a warrant is directed to more Police officers than one, it may be executed by all or by any one or more of them.

(2) A warrant may be executed by any Police officer whose name is endorsed upon the warrant by the officer to whom it is directed. Execution of warrant by officer whose name is endorsed.

94. The Police officer executing a warrant of arrest shall notify the substance thereof to the person to be arrested, and, if so required, shall show him the warrant. Notification of substance of warrant.

95. The Police officer executing a warrant of arrest shall, subject to the provisions of sub-section (2) of section 92, without unnecessary delay bring the person arrested before the Court before which he is required by law to produce such person. Person arrested to be brought before Court without delay.

96. The Commissioner of Police shall endorse his name on any warrant forwarded to him by any Court outside the City of Bombay and shall, if practicable, cause it to be executed in manner hereinbefore provided within the City of Bombay. Warrant forwarded from Court outside Bombay.

97. (1) When a warrant directed to a Police officer by a Court outside the City of Bombay is to be executed within the City of Bombay, he shall ordinarily take it for endorsement to a Police officer not below the rank of Inspector within whose section the warrant is to be executed. Warrant directed to Police officer by Court outside Bombay.

(2) Such Police officer shall endorse his name thereon, and such endorsement shall be sufficient authority to the Police officer to whom the warrant is directed to execute the same within such division, and the local Police shall, if so required, assist such officer in executing such warrant: To be endorsed by Inspector, etc.

Provided that whenever there is reason to believe that the delay occasioned by obtaining such endorsement will prevent the execution of the warrant, the Police officer to whom it is directed may execute the same without such endorsement. Unless delay will prevent execution.

98. Any person arrested within the City of Bombay under the provisions of section 96 or 97 shall, unless security is taken under sub-section (2) of section 92, be taken before a Presidency Magistrate or the Commissioner of Police. Procedure on arrest on such warrants.

99. (1) Such Magistrate or Commissioner shall, if the person arrested appears to be the person intended by the Court which issued the warrant, direct his removal in custody to such Court : Procedure of Magistrate or Commissioner of Police.

Provided that if the offence is bailable, and such person is ready and willing to give bail to the satisfaction of such Magistrate or Commissioner, or if such person is ready and willing to give security in pursuance of any direction endorsed on the warrant by the Court which issued the same, such Magistrate or Commissioner shall take such bail or security, as the case may be, and forward the bond to the Court which issued the warrant. When bail to be taken.

(2) Nothing in this section shall be deemed to prevent a Police officer from taking security under sub-section (2) of section 92.

Search Warrants.

Execution of search warrant.

100. Any person to whom a search warrant is directed by a Court may make a search or inspection in accordance with such directions as may be given therein and with the provisions hereinafter contained.

Disposal of things found on search warrant issued by Court outside Bombay.

101. When in the execution of a search warrant issued by a Court outside the City of Bombay any of the things for which search is made are found in the City of Bombay, such things together with the list of the same prepared as hereinafter provided shall be taken to the Presidency Magistrate having jurisdiction at the place where they were so found or to the Commissioner of Police, and, unless there be good reason to the contrary, such Magistrate or Commissioner shall make an order authorizing them to be taken to such Court.

Procedure as in case of warrants.

102. The provisions of sections 92, 93, 94, 96 and 97 shall, so far as may be, apply to all search warrants issued to a Police officer under this Act or under the [1]Code of Criminal Procedure. V of 1898.

Person in charge of closed place to allow a search.

103. (*1*) Whenever any place liable to search or inspection under this Act is closed, any person residing in, or being in charge of, such place shall, on demand of the officer or other person executing the warrant and on production of the warrant, allow him free ingress thereto, and afford all reasonable facilities for a search therein.

Ingress how to be obtained.

(*2*) If ingress into such place cannot be so obtained, the officer or other person executing the warrant may proceed in manner provided by sub-section (*2*) of section 78.

Search for articles concealed on person.

(*3*) When any person in or about such place is reasonably suspected of concealing about his person any article for which search should be made, such person may be searched, subject to the provisions of sub-section (*2*) of section 81 if such person be a woman.

Copy of list to be given to person searched.

(*4*) When any person is searched under sub-section (*3*), a list of all things taken possession of shall be prepared, and a copy thereof shall be delivered to such person, if he so require.

Search to be made in presence of witnesses.

104. (*1*) Before making a search under this Act, the officer about to make it shall call upon two or more respectable inhabitants of the locality in which the place to be searched is situate to attend and witness the search.

List of things seized to be made.

(*2*) The search shall be made in their presence, and a list of all things seized in the course of such search and of the places in which they are respectively found shall be prepared by such officer and signed by such witnesses; but no person witnessing a search under this section shall be required to attend the Court as a witness of the search unless specially summoned by it.

Occupant

(*3*) The occupant of the place searched, or some person in his behalf shall,

[1] *See* Act 5 of 1898 as modified up to 1st April, 1903.

in every instance, be permitted to attend during the search, and a copy of the list prepared under this section, signed by the said witnesses, shall be delivered to such occupant or person at his request.

to be present; and to have copy of list if required.

105. The Commissioner of Police may, if he thinks fit, retain in safe custody any document or thing found or produced before him which relates to a matter under investigation or in respect of which there is a reasonable suspicion of the commission of an offence.

Documents, etc., may be retained in safe custody.

Bail.

106. When any person, other than a person accused of a non-bailable offence, is arrested or detained without warrant by an officer in charge of a section and is prepared at any time while in custody of such officer to give bail, such person shall be released on bail :

Bail to be taken in case of bailable offence.

Provided that such officer, if he thinks fit, may, instead of taking bail from such person, discharge him on his executing a bond without sureties for his appearance as hereinafter provided.

107. (*1*) When any person accused of any non-bailable offence is arrested or detained without a warrant, by an officer in charge of a section, he may be released on bail, but he shall not be so released if there appear reasonable grounds for believing that he has been guilty of the offence of which he is accused.

When bail may be taken in case of non-bailable offence.

(*2*) If it appears to such officer at any stage of the investigation that there are not reasonable grounds for believing that the accused has committed such offence, but that there are sufficient grounds for further inquiry into his guilt, the accused shall, pending such inquiry, be released on bail, or, at the discretion of such officer, on the execution by him of a bond without sureties for his appearance as hereinafter provided.

108. Before any person is released under section 106 or 107, a bond for such sum of money as the Police officer thinks sufficient shall be executed by such person, and if he is released on bail, by one or more sufficient sureties, conditioned that such person shall attend at the time and place mentioned in the bond and shall continue so to attend until otherwise directed by the Police officer or by a Magistrate.

Bond of accused and his sureties.

109. (*1*) As soon as the bond has been executed, the person for whose appearance it has been executed shall be released.

Discharge from custody.

(*2*) Nothing in this section or in section 106 or 107 shall be deemed to require the release of any person liable to be detained for some matter other than that in respect of which the bond was executed.

Liability to be detained for other offence.

110. The amount of every bond executed under this chapter shall be fixed with due regard to the circumstances of the case, and shall not be excessive, and the High Court may in any case direct that any person be admitted to bail, or that the bail required by a Police officer be reduced.

Amount of bail not to be excessive.

CHAPTER VII.

OFFENCES AND PUNISHMENTS.

Wilful trespass.

111. Whoever without satisfactory excuse wilfully enters or remains in or upon any dwelling-house or premises or any land or ground attached thereto, or on any ground, building, monument or structure belonging to Government or appropriated to public purposes, or on any boat or vessel, shall, whether he causes any actual damage or not, be punished with fine which may extend to twenty rupees.

Being found under suspicious circumstances between sunset and sunrise.

112. Whoever is found between sunset and sunrise—

(*a*) armed with any dangerous instrument with intent to commit an offence, or

(*b*) having his face covered, or otherwise disguised, with intent to commit an offence, or

(*c*) in any dwelling-house or other building, or on board any vessel or boat without being able satisfactorily to account for his presence there, or

(*d*) lying or loitering in any street, yard or other place, being a reputed thief and without being able to give a satisfactory account of himself, or

(*e*) having in his possession without lawful excuse (the burden of proving which excuse shall be on such person) any implement of housebreaking,

shall be punished with imprisonment for a term which may extend to three months.

Carrying weapon without authority.

113. Whoever not being a soldier or sailor in His Majesty's Army or Navy, or Royal Indian Marine Service, or a Volunteer enrolled under the [1]Indian Volunteers Act, 1869, and acting as such, or a Police officer, goes armed with any sword, spear, bludgeon, gun, or other offensive weapon, in any street or public place, unless by lawful authority, shall be liable to be disarmed by any Police officer, and the weapon or weapons so seized shall be forfeited to Government, unless redeemed by payment of such fine not exceeding ten rupees as the Commissioner of Police imposes. XX of 1869.

Possession of property of which no satisfactory account can be given.

114. Whoever has in his possession or conveys in any manner, or offers for sale or pawn, anything which there is reason to believe is stolen property or property fraudulently obtained, shall, if he fails to account for such possession or act to the satisfaction of the Magistrate, be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees.

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[1] General Acts, Vol. II.

115. Whoever—

(*a*) takes or introduces, or attempts to take or introduce any spirits or spirituous or fermented liquors or intoxicating drugs or preparations into any public hospital without the permission of a medical officer of such hospital, or

Taking spirits into public hospitals;

V of 1869.

(*b*) not being amenable to the [1]Articles of War, takes or introduces, or attempts to take or introduce any such spirits, liquors, drugs or preparations not belonging to any person above the rank of a non-commissioned officer,

or into barracks or on board vessels of war.

(*i*) into the barracks or buildings occupied by the troops composing the Garrison of Bombay or into any military barracks, guard-rooms or encampments, or

(*ii*) on board or alongside of any vessel of war belonging to His Majesty in the Port,

shall be punished with imprisonment for a term which may extend to two months, or with fine which may extend to one hundred rupees, and such spirits, liquors, drugs or preparations, and the vessels containing the same, shall be forfeited.

116. (*1*) Whoever, being a pawn-broker, dealer in second-hand property, or worker in metals, or reasonably believed by the Commissioner of Police to be such a person, and having received from a Police officer written or printed information that the possession of any property is suspected to have been transferred by any offence mentioned in section 410 of the [2]Indian Penal Code, or by any offence punishable under section 417, 418, 419 or 420 of the said Code, is found in the possession, or thereafter comes into the possession, or has an offer either by way of sale, pawn, exchange, or for custody, alteration or otherwise howsoever, made to him, of property answering the description contained in such information, shall, unless

Omission by pawn-brokers, etc., to report to Police possession or tender of property suspected to be stolen.

XLV of 1860.

(*i*) he forthwith gives information to the Commissioner of Police or at a police station of such possession or offer and takes all reasonable means to ascertain and to give information as aforesaid of the name and address of the person from whom the possession or offer was received, or

(*ii*) the property being, as an article of common wearing apparel or otherwise, incapable of identification from the written or printed information given, has been in no way concealed after the receipt of such information,

be punished with fine which may extend to fifty rupees in respect of each such article of property so in his possession or offered to him.

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[1] For India, *see* the Indian Articles of War, 1869 (Act 5 of 1869), as modified up to the 1st December, 1904.

[2] *See* Act 45 of 1860 as modified up to 1st April, 1903.

Melting, etc., of such property.

(2) Whoever, having received such information as aforesaid, alters, melts, defaces or puts away or causes or suffers to be altered, melted, defaced or put away without the previous permission of the Police any such property, shall, on proof that the same was stolen property within the meaning of section 410 of the [1] Indian Penal Code, or property in respect of which any offence punishable under section 417, 418, 419 or 420 of the said Code has been committed, be punished with imprisonment for a term which may extend to three years, or with fine, or with both. XLV of 1860.

Taking pledge from child.

117. Whoever takes from any child not appearing to be above the age of fourteen years any article whatsoever as a pawn, pledge or security for any sum of money lent, advanced or delivered to such child, or without the knowledge and consent of the owner of the article buys from such child any article whatsoever, shall be punished with fine which may extend to one hundred rupees.

Cleaning furniture or animal.

Repairing vehicles.

Taking animal or vehicle on footpath.

Training and breaking horses.

Setting a dog to attack persons or animals.

Letting horses loose, and suffering ferocious dogs to be at large, etc.

Obstruction, damage, etc., by animals.

Obstructin bathing.

Frightening persons, horses, etc., by flying a kite.

118. Whoever in any street or public place—

(*a*) cleans any article of furniture, or any vehicle, or grooms any animal,

(*b*) except at such times and places as are permitted by the Commissioner of Police, makes, or save in case of an accident rendering repairs on the spot unavoidable, repairs, any part of any vehicle,

(*c*) rides, drives, leads, propels or places on any footpath any animal, or any vehicle other than a perambulator,

(*d*) except at such times and places as the Commissioner of Police permits, trains or breaks any horse,

(*e*) sets on or urges a dog or other animal to attack, worry or put in fear any person or animal,

(*f*) negligently lets loose any horse or other animal so as to cause danger, injury, alarm or annoyance, or suffers any ferocious dog to be at large without a muzzle.

(*g*) causes obstruction, damage or injury by any misbehaviour, negligence or ill usage in the driving, management, treatment or care of any cattle or animal,

(*h*) obstructs or incommodes a person bathing, at a place at which bathing is permitted, either by wilful intrusion or by improper use of such place, or

(*i*) flies a kite so as to cause danger, injury or alarm to persons, horses or property,

shall be punished with fine which may extend to fifty rupees.

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[1] *See* Act 45 of 1860 as modified up to 1st April, 1903.

Lighting bonfire, burning straw, discharging firearm, etc., in or near street or public place.

119. Whoever in or near any street or public place—

(*a*) sets fire to or burns any straw or other matter,

(*b*) lights a bonfire, or

(*c*) lets off or throws a firework,

and whoever in or within two hundred yards of any street or public place,

(*d*) wantonly discharges a firearm or air-gun, or

(e) sends up a fire balloon or rocket,

except at such times and places as the Commissioner of Police from time to time permits, shall, in any case falling under clause (*d*) or (*e*) of this section, be punished with imprisonment for a term which may extend to eight days, or with fine which may extend to fifty rupees, and in any other case be punished with fine which may extend to fifty rupees.

Soliciting for purposes of prostitution and indecent exposure of person.

120. Whoever in any street or public place or place of public resort, or within sight of, and in such manner as to be seen or heard from, any street or public place, whether from within any house or building or not,—

(*a*) by words, gestures or otherwise attracts or endeavours to attract attention for the purpose of prostitution,

(*b*) solicits or molests any person for the purpose of prostitution, or

(*c*) wilfully and indecently exposes his person,

shall be punished with imprisonment for a term which may extend to eight days, or with fine which may extend to fifty rupees.

Begging and exposure of offensive ailments.

121. Whoever in any street or public place begs or directs or permits children under his control to beg, or applies for alms or exposes or exhibits with the object of obtaining or extorting alms any sores, wound, deformity or disease, shall be punished with imprisonment for a term which may extend to one month or with fine which may extend to fifty rupees, or with both.

Drunkenness or riotous or disorderly behaviour in street, etc.

122. Whoever in any street or public place or place of public resort—

(*a*) is drunk and incapable of taking care of himself,

(*b*) behaves in a riotous, indecent or disorderly manner, or

Provoking breach of the peace.

(*c*) uses any threatening, abusive, insulting or obscene words or gestures whereby a breach of the peace or public nuisance may be occasioned,

shall be punished with imprisonment for a term which may extend to eight days, or with fine which may extend to fifty rupees.

Disorderly conduct in Court and Police offices.

123. Whoever in any Court or Police station or office behaves in a violent, disorderly or indecent manner, shall be punished with fine which may extend to fifty rupees.

Committing nuisance in or near street, etc.

124. Whoever in or near to any street, public place or place of public resort—

(*a*) commits a nuisance by easing himself, or

(*b*) having the care or custody of any child under seven years of age suffers such child to commit a nuisance as aforesaid

shall be punished with fine which may extend to fifty rupees.

Permission of disorderly conduct in places of public amusement, etc.

125. Whoever, being the keeper of any place of public amusement or entertainment, knowingly—

(*a*) permits drunkenness or other disorderly behaviour, or any gaming whatsoever, in such place, or

(*b*) permits prostitutes, or persons of notoriously bad character, to meet or remain in such place,

hall be punished with fine which may extend to one hundred rupees.

Cheating at games.

126. Whoever, by any fraud or unlawful device or malpractice in playing at or with cards, dice or other game, or in taking a part in the stakes or wagers, or in betting on the sides or hands of the players, or in wagering on the event of any game, sport, pastime or exercise, wins from any other person, for himself or any other or others, any sum of money or valuable thing, shall be deemed guilty of cheating within the meaning of section 415 of the [1]Indian Penal Code, and be liable to punishment accordingly. XLV of 1860.

Contravention of rules and orders.

127. Whoever—

(*a*) contravenes any rule made under section 22 or any order or prohibition lawfully given under sub-section (*3*) of section 22 or under section 23, or

(*b*) disobeys or fails to conform to any lawful and reasonable direction given by any Police officer in conformity with this Act or with any rule made thereunder, or

(*c*) opposes or disobeys or fails to conform to any direction notified by the Commissioner of Police under section 27, or abets opposition to or disobedience of any such direction,

shall,—

(*i*) for any contravention of a rule made under section 22, if the rule contravened be one made under clause (*a*), (*b*) or (*c*), or under sub-clause (*i*) or (*ii*) of clause (*f*), be punished with fine which may extend to fifty rupees, and if it be one made under clause (*d*) or (*e*) or under sub-clause (*iii*), (*iv*) or (*v*) of clause (*f*), be punished with imprisonment for a term which may extend to eight days, or with fine which may extend to fifty rupees, or with both;

[1] *See* Act 45 of 1860 as modified up to 1st April, 1903.

(*ii*) for any contravention of a prohibition given under sub-section (*2*) or (*3*) of section 23, or in any case falling under clause (*c*) of this section be punished with imprisonment for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both; and

(*iii*) in any other case, be punished with fine which may extend to one hundred rupees.

Unauthorized return after removal from Bombay.

128. Whoever, within two years from the date of his removal under the provisions of section 27, returns to any place within the City of Bombay, without the permission in writing of the Commissioner of Police, shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

Prostitute, etc., not complying with notice.

129. Any person on whom a notice under section 28 shall have been served, disobeying the requisition therein contained, shall be punished with imprisonment for a term which may extend

(*a*) in the case of a first offence, to one month, and

(*b*) in the case of a second or subsequent offence, to three months.

Prosecution for certain offences to be discretionary.

130. It shall not be incumbent on the Commissioner of Police, or any Superintendent specially authorized in writing in that behalf by the Commissioner, to prosecute for any offence punishable under sub-section (*3*) of section 10, section 118, 119, 122, 127 or 128, save in obedience to a rule or order made by the Governor in Council or when such offence has occasioned serious mischief.

Prosecution for offences under other enactments.

131. Nothing in this Act shall be construed to prevent any person from being prosecuted and punished under any other enactment for any offence made punishable by this Act, or from being prosecuted and punished under this Act, for an offence punishable under any other enactment: Provided that all such cases shall be subject to the provisions of section 403 of the [1] Code of Criminal Procedure.

V of 1898.

CHAPTER VIII.

MISCELLANEOUS.

Disposal of fees, rewards, etc.

132. All fees paid for licenses or written permissions issued under this Act, and all sums paid for the service of processes by Police officers, and all rewards, forfeitures and penalties or shares thereof which are by law payable to Police officers as informers, shall, save in so far as any such fees or sums belong, under the provisions of any enactment in force, to the Municipality, be credited to Government:

[1] *See* Act V of 1898 as modified up to 1st April, 1903.

Provided that, with the sanction of the Governor in Council, or under any rule made by the Governor in Council in that behalf, the whole or any portion of any such reward, forfeiture or penalty may, for special services, be paid to a Police officer, or be divided amongst two or more Police officers.

Method of proving orders and notifications.

133. Any order or notification published or issued by the Governor in Council or by a Magistrate or officer under any provision of this Act, and the due publication or issue thereof, may be proved by the production of a copy thereof in the *Bombay Government Gazette*, or of a copy thereof signed by such Magistrate or officer, and by him certified to be a true copy of an original published or issued according to the provisions of the section of this Act applicable thereto.

Rules and orders not invalidated by defect of form or irregularity in procedure.

134. No rule, order, direction, adjudication, inquiry or notification made or published, and no act done under any provision of this Act or of any rule made under this Act, or in substantial conformity to the same, shall be deemed illegal, void, invalid or insufficient by reason of any defect of form or publication or any irregularity of procedure.

Application by person interested to annul, etc., rule or order.

135. (*1*) In the case of any rule or order made by the Governor in Council under an authority conferred by this Act and requiring the public or a particular class of persons to perform some duty or act, or to conduct or order themselves or those under their control in a manner therein described, it shall be competent to any person interested to apply to the Governor in Council by a memorial addressed to a Secretary to Government, to annul, reverse or alter such rule or order on the ground of its being unlawful, oppressive or unreasonable.

When suit will lie to declare order unlawful.

(*2*) If such an application has been wholly or in part rejected, or if after the lapse of four months no answer thereto or decision thereon has been received from or published by the Governor in Council, it shall be competent to the person interested to institute a suit against Government for a declaration that such rule or order is unlawful either wholly or in part. Any such rule or order finally adjudged to be unlawful shall be annulled or reversed or so altered as to make it conformable to law.

Licenses and written permissions to specify conditions, etc., and to be signed.

136. (*1*) Any license or written permission granted under the provisions of this Act shall specify the period and locality for which, and the conditions and restrictions subject to which, the same is granted, and shall be given under the signature of the Commissioner of Police : and such fee shall be charged therefor as is prescribed by any rule under this Act on that behalf.

Revocation of licenses, etc.

(*2*) Any license or written permission granted under this Act may at any time be suspended or revoked by the Commissioner of Police, if any of its conditions or restrictions is infringed or evaded by the person to whom it has been granted, or if such person is convicted of any offence in any matter to which such license or permission relates.

When license

(*3*) When any such license or written permission is suspended or revoked, or when the period for which the same was granted has expired, the person

to whom the same was granted shall, for all purposes of this Act, be deemed to be without a license or written permission, until the order for suspending or revoking the same is cancelled, or until the same is renewed, as the case may be. revoked, etc., grantee to be deemed without license.

(*4*) Every person to whom any such license or written permission has been granted shall, while the same remains in force, at all reasonable times, produce the same, if so required by a Police officer. Grantee to produce license, etc., when required.

137. Any public notice required to be given under any of the provisions of this Act shall be in writing under the signature of the Commissioner of Police and shall be published in the locality to be affected thereby, by affixing copies thereof in conspicuous public places, or by proclaiming the same with beat of drum, or by advertising the same in such local newspapers, English or Vernacular, as the Commissioner of Police may deem fit, or by any two or more of these means and by any other means he may think suitable. Public notices how to be given.

138. Whenever under this Act the doing or the omitting to do anything or the validity of anything depends upon the consent, approval, declaration, opinion or satisfaction of the Commissioner of Police or of any other Police officer, a written document signed by the Commissioner of Police or by such officer purporting to convey or set forth such consent, approval, declaration, opinion or satisfaction shall be sufficient evidence thereof. Consent, etc., of Commissioner of Police may be proved by writing under his signature.

139. Every license, written permission, notice, or other document, not being a summons or warrant, or search warrant, required by this Act, or by any rule thereunder, to bear the signature of the Commissioner of Police, shall be deemed to be properly signed if it bears a facsimile of his signature stamped thereon. Signature on notices, etc., may be stamped.

140. (*1*) No Magistrate or Police officer shall be liable to any penalty or to payment of damages on account of any act done in [1]good faith in pursuance or intended pursuance of any duty imposed or authority conferred on him by any provision of this Act or of any rule, order or direction lawfully made or given thereunder. Magistrate or Police officer not liable to penalty or damages for act done in good faith in discharge of duty.

(*2*) No public servant or person duly appointed or authorised shall be liable as aforesaid for giving effect in [1] good faith to any such order or direction issued with apparent authority by the Governor in Council or by a person empowered in that behalf under this Act or any rule made thereunder. Nor public servants, etc., for giving effect in good faith to rule, etc., issued with apparent authority.

(*3*) In any case of an alleged offence by a Magistrate, Police officer or other person or of a wrong alleged to have been done by such Magistrate, Prosecutions or suits for acts done

[1] As to definition of "good faith" *see* s. 52 of the Indian Penal Code (Act 45 of 1860)' as modified up to 1st April, 1903, and s. 3 (*20*) of the Bombay General Clauses Act, 1904 (Bom. Act I of 1904), *infra*, p. 1708.

under colour of duty barred after three months.

Police officer or other person, by any act done under colour or in excess of any such duty or authority as aforesaid, or wherein it shall appear to the Court that the offence or wrong, if committed or done, was of the character aforesaid, the prosecution or suit shall not be entertained, or shall be dismissed, if instituted more than three months after the date of the act complained of.

Suits in certain cases to be dismissed.

(*4*) The plaint in any such suit shall be rejected if it does not expressly allege that the act complained of was done maliciously and without reasonable or probable cause; and any such suit shall be dismissed if, in the case of an action for damages, tender of sufficient amends shall have been made before the suit was brought, or a sufficient sum of money is paid into Court, with costs, by or on behalf of the defendant, after the institution of the suit.

SCHEDULE A.

Enactments repealed (vide *Section* 2 (*1*)).

Year.	No.	Subject or Title.	Extent or repeal.
1856 ...	XIII	An Act for regulating the Police of the Towns of Calcutta, Madras and Bombay.	So far as it affects the Town of Bombay so much as has not been repealed.
1866	XLVIII	An Act to amend Act XIII of 1856.	So far as it affects the Town of Bombay so much as has not been repealed.
[1]1896	V	The Code of Criminal Procedure.	In sub-section (2) of sections 54, 55, 56 and 127 and in sub-section (4) of section 84, *the letter* s *in the word* Towns *and the words* and Bombay. The whole of Chapter IX so far as it applies to the Town of Bombay. Sub-section (2) of section 83 and sections 85, 86 and 155 so far as they apply to the Police in the Town of Bombay.

SCHEDULE B.

Certificate to be received by Police officers appointed by the Commissioner of Police (vide *Section 8* (*1*)).

A. B. has been appointed by the Commissioner of Police for the City of Bombay to the Police of the City of Bombay, and is vested with the powers, functions and privileges of a Police officer under the City of Bombay Police Act, 1902.

Commissioner of Police.

[1] *See* Act 5 of 1898 as modified up to 1st April, 1903.